

## **REMARKS**

Reconsideration of the application and allowance of all claims pending herein is respectfully requested in view of the remarks below. Claims 1, 3, 4 and 15 are now pending and under consideration.

Initially, applicant notes that the new grounds of rejection over Magnani, (U.S. Patent No. 6,158,747) were first presented in the final Office Action dated December 2, 2003. Applicant has not yet had the opportunity to address the rejections over Magnani. Further, the amendments made to claim 1 in the previous Response would have been reasonable to have been expected, particularly considering that a variation of this claim language was presented in claim 1 prior to a preliminary amendment thereto. Thus, applicant respectfully requests that the finality of the present Office Action be withdrawn. MPEP § 706.07(a), § 904.

### **Rejections Under 35 U.S.C. § 102(b):**

Claims 1, 3, 4 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Magnani (U.S. Patent No. 6,158,747).

Claims 1 recites a board for downhill skiing which has an underfoot zone. The underfoot zone includes a lower gliding surface, a topsheet, and lateral faces. The lower gliding surface includes a sole plate bordered by metal edges. The topsheet is substantially parallel to the lower gliding surface, on either side of a center longitudinal plane of the board. The lateral faces extend between the metal edges and the topsheet and include recesses located below the plane of the topsheet and which open out into the topsheet. Bases of the recesses form a slope inclined longitudinally relative to the lower gliding surface and the topsheet.

Magnani discloses a ski having an elastically deformable structure which includes one deformable chamber filled with a damping fluid, and the chamber being in fluid communication with a second deformable chamber and a compensation chamber. As depicted in a cross-sectional longitudinal view in FIG. 1, springs 44 are located above compensation chamber 36 in an unnamed cavity below the top surface of the ski, bounded by flanks 56 on lateral sides of the ski, upper element 52, and compensation chamber 36. However, as depicted in FIG. 5, which is a cross-sectional transverse view of the central longitudinal portion of the ski, flanks 56 do not include recesses, nor any recesses opening out in a topsheet of the ski. Instead, as depicted in FIG. 5, the cavity in which springs 44 are located is bounded by flanks 56, compensation chamber 36 and upper element 52 of the ski, but there are no recesses in the lateral portions or the top portions of such ski, which is in contrast to the recitation in claim 1 of the present

application of lateral faces having recesses located below a plane of the topsheet and such recesses opening out in such topsheet.

Merriam-Webster's on-line dictionary (see [www.m-w.com](http://www.m-w.com)) defines "recess" in several ways (copy attached) as Appendix A with the most appropriate being an indentation. This definition is appropriate in view of the description on page 6 which describes the recesses as forming hollowed zones inside lateral faces which are delimited by three surfaces which include a vertical first surface 15, an inclined base 15, and a portion 17 connecting the rear of the recess to a topsheet. Magnani does not disclose an indentation or recess but instead discloses a cavity receiving springs which is bounded by continuous solid surfaces. Thus, Magnani cannot disclose a recess which opens out in a topsheet of ski since the cavity disclosed therein does not open out at all, and instead is bounded by the portions of the ski described above.

Also, the Office Action alleges that lateral faces having recesses are disclosed in FIGS. 3-4, 7, 9-10, 21-22, and 24-25. However, these figures do not disclose an underfoot zone as recited in claim 1 of the present application. Instead, these figures depict cross-sections which are obviously outside such an underfoot zone. As described in the first paragraph of column 3, a binding is intended to be fit to a central portion of the ski above compensation chambers 36 the binding receives a boot of a user. Thus, the figures alleged in the Office Action to disclose recesses in an underfoot zone are not located in such an underfoot zone because they are not located in the central portion of the ski above compensation chambers 36.

Accordingly, because Magnani does not identically disclose the features of claim 1 of the present application, e.g., lateral faces having recesses which open out into a topsheet of a ski, this reference cannot anticipate this claim. Thus, claim 1 is thus believed to allowable, along with the dependent claims which are believed to be allowable for the same reasons and for their own additional features.

Also attached as Appendix B are several pages from a catalog entitled "Nordic Alpine" by Rossignol dated 2002-2003 and several pages from a second catalog entitled "Alpine Nordic" by Rossignol dated 2003-2004, attached as Appendix-C. These pages illustrate the commercial embodiment of the board recited in claim 1. It is also possible to forward a ski embodying a commercial embodiment of the board recited in claim 1 if it would be helpful to the examination of the present application.

#### **Information Disclosure Statement**

Applicant submitted a Supplemental Information Disclosure Statement on November 20, 2003, which does not appear to have been considered. Applicants respectfully requests that the references

submitted in this Information Disclosure Statement be considered and the corresponding PTO-1449 be initialed and provided to applicant.

**Species Election:**

Applicants respectfully reasserts that upon allowance of any generic claim, all claims previously depending thereon shall be considered regardless of whether such dependent claim reads upon the elected species.

**CONCLUSION**

It is believed that the application is in condition for allowance, and such action is respectfully requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, the Examiner is invited to telephone the undersigned attorney at the telephone number provided.

*Respectfully submitted,*



Victor A. Cardona, Esq.  
Attorney for Applicants(s)  
Registration No. 44,589

Dated: February 20, 2004

**HESLIN ROTHENBERG FARLEY & MESITI, P.C.**

5 Columbia Circle

Albany, New York 12203

Telephone: (518) 452-5600

Facsimile: (518) 452-5579